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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/519,546

08/23/2005

Trevor Ross Suggate

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05/29/2009

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EXAMINER

HARTMANN, GARY S

ART UNIT

PAPER NUMBER

3671

MAIL DATE

DELIVERY MODE

05/29/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/519,546	<b>Applicant(s)</b> SUGGATE, TREVOR ROSS	
	<b>Examiner</b> Gary Hartmann	<b>Art Unit</b> 3671	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2009.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 2-28 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-28 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 01 April 2009 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                     | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 103***

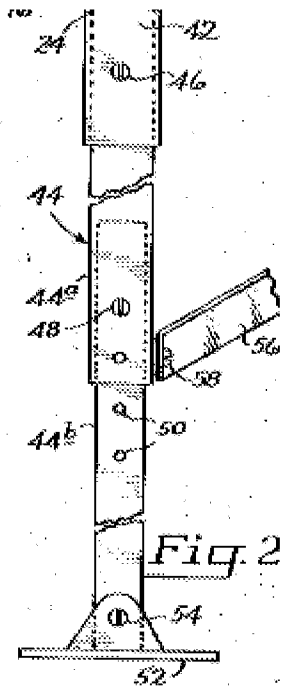
The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2-16, 19-22 and 24-29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood 2-7, 9-11, 13, 19-22 and 24-29 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenwood (U.S. Patent 3,808,757).

Greenwood discloses a deck support having a prefabricated movable member (44a) engageable with a corresponding elongate member (44b). The movable member (44a) has an extension (56) which angles upwardly to meet other extensions (56) at a plate (38). While it is not specifically disclosed that this plate supports the deck, it is clear that flat surface would permit the lower surface of the deck to rest there upon. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have supported the deck with the extension/plate combination (56, 38) in order to increase the load bearing capacity of the deck.

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There is a pivotable foot (52) extending from an end of the elongate member (44b).

The movable member (44a) includes a handrail support (42, 24, 76) which support prefabricated handrails (60, 62, 64, 66).

There are folded deck segments (24).

There is a pin (48) for locating the movable member (44b) relative to the elongate member (44a).

Regarding claim 8, this is a duplication of existing parts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have including a plurality of support bearers in order to provide additional support as needed.

Regarding claims 12 and 16, the support appears to only receive one handrail upright. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have arranged the support to receive a plurality of uprights in order to obtain suitable support for a particular handrail.

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Regarding claim 14, the handrail upright is normal to extension (38).

Regarding claim 15, it is unclear if the extension covers a lower end of the support; however, the examiner takes official notice that this is a common configuration. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have configured Greenwood in this manner in order to support a heavy handrail.

The method is deemed to be met. Further, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the method as claimed in order to obtain the structures shown in Greenwood.

Claims 17 and 18 rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood as applied above, and further in view of Richardson (U.S. Patent 3,788,016).

It is well known to include a roof with a deck structure in order to provide shelter to the deck, as exemplified by Richardson. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the roof of Richardson with the decks of Greenwood in order to shelter the deck of Greenwood.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Greenwood as applied above, and further in view of Shomaker (U.S. Patent 6,701,563).

Shomaker teaches the claimed angle to be beneficial in increasing deck strength. For this reason, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have used the claimed angles with Greenwood.

***Response to Arguments***

Applicant's arguments filed 01 April 2009 have been fully considered but they are not persuasive. The arguments that the 44a does not meet the recitation of a movable member are not persuasive because part 44b rests on the ground; therefore, any relative movement between the two results in a change in height (i.e., a movement) of part 44a. Further, the product claims recite that the part is movable relative to the other part, which it clearly is. The examiner would be remiss to issue a claim based upon which one was considered to be the movable member when they each move relative to one another.

Regarding the method claims, the examiner maintains that, given the structure of Greenwood, the process is within ordinary skill.

Regarding the support, the examiner has removed the 102(b) rejection and replaced it with a 103(a) rejection. As can be clearly seen in the figures, the struts (56) angle upward toward the flat plate (38), which is essentially located below the center of the deck. Clearly, the flat portion of the plate (38) would permit the lower surface of the deck to rest there upon. There is nothing inventive about adding a support to the center of a deck; therefore, applicant is not entitled to a patent based upon this feature.

***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary Hartmann whose telephone number is 571-272-6989. The examiner can normally be reached on Tuesday through Friday, 9am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas Will can be reached on 571-272-6998. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Gary Hartmann/  
Primary Examiner, Art Unit 3671